UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:	**:**	**CHAPTER 13**
JOE HOWARD ROGERS	**:**	**CASE NUMBER A15-51937-CRM**
MARY ANN ROGERS	**:**	
DEBTORS	**:**	**JUDGE MULLINS**

CHAPTER 13 TRUSTEE'S OBJECTION TO CONFIRMATION AND EXEMPTIONS AND MOTION TO DISMISS CASE

COMES NOW, Nancy J. Whaley, the Standing Chapter 13 Trustee herein, and objects to Confirmation of the plan for the following reasons:

1.

The Debtors' payments under the proposed plan are not current, thus indicating that this plan is not feasible. 11 U.S.C. Section 1325(a)(6).

2.

The Chapter 13 Trustee is unable to determine the feasibility of the Debtors' Chapter 13 Plan because Internal Revenue Service records indicate tax returns have not been filed for the periods ending December 31, 2009; December 31, 2010; December 31, 2011; December 31, 2013; December 31, 2014. The failure to file tax returns for the four (4) year period prior to the filing of the bankruptcy case is in violation of 11 U.S.C. Section 1308.

3.

The plan as proposed will extend beyond sixty (60) months, contrary to 11 U.S.C. Section 1322(d). (61 months).

4.

Debtors have failed to file tax returns with the tax authorities for the four (4) year period prior to filing in violation of 11 U.S.C. Section 1308.

5.

The Debtors' Schedule I reflects a contribution from son of $650.00 per month. The Trustee requests documentation regarding this contribution, including, but not limited to, a notarized affidavit executed by the contributor which states the date the contribution began and how long it is expected to continue. If the contribution is from rental income, the Trustee requests documentation such as a copy of the written lease or a notarized affidavit from the lessee. 11 U.S.C. Section 1325(a)(6).

6.

The funding of post-petition mortgage installments have not been maintained in the above-styled Chapter 13 case, thereby rendering the proposed plan infeasible in violation of 11 U.S.C. Section 1325(a)(6).

7.

The Chapter 13 Schedules reflect an exemption of $7,325.00, an amount that exceeds the exemption limitations allowed in accordance with O.C.G.A. Section 44-13-100(a)(3).

8.

The plan proposes for the Trustee to disburse attorney fees; however, the Trustee is unable to administer the provision as it is currently written.

9.

The Chapter 13 composition plan proposes to pay a debt of $24,189.00 for a vehicle purchased in October 2014, thereby indicating a lack of good faith in proposing a repayment plan in violation of 11 U.S.C. Section 1325(a)(3).

10.

The Debtors' plan proposes a zero percent (0%) dividend to unsecured creditors, while paying for an automobile debt in the amount of $24,189.00. As the automobile debt represents a majority of the debt to be funded in the plan, and there is no meaningful return to unsecured creditors, it appears that the Debtors are attempting to refinance an auto purchase through the Chapter 13 plan. Based on the foregoing, the proposed plan may violate 11 U.S.C. Section 1325(a)(3).

11.

The Debtors are proposing a zero percent (0%) dividend payment to nominal unsecured debt totaling $3,723.00, which may violate 11 U.S.C. Section 1325(a)(3).

12.

The proposed plan payment is insufficient to fund creditors and attorney fees pursuant to the set payments in the plan.

WHEREFORE, the Trustee moves the Court to inquire into the above objections, deny Debtors' exemptions, deny Confirmation of the Debtors' plan and dismiss the case.

Respectfully submitted,

/s/_____

Ryan J. Williams,
Attorney for Chapter 13 Trustee
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303 Peachtree Center Ave., NE, Ste 120
Atlanta, GA 30303
(678) 992-1201

/kk

CERTIFICATE OF SERVICE

Case No: A15-51937-CRM

This is to certify that I have this day served the following with a copy of the foregoing Chapter 13 Trustee's Objection by depositing in the United States mail a copy of same in a properly addressed envelope with adequate postage thereon.

Debtor(s):
JOE HOWARD ROGERS
MARY ANN ROGERS
1955 SPINK ST NW
ATLANTA, GA 30318

By Consent of the parties, the following have received an electronic copy of the foregoing Chapter 13 Trustee's Objection through the Court's Electronic Case Filing system.

Attorney for the Debtor(s):
KING & KING LAW LLC
notices@kingkingllc.com

This the 11th day of March, 2015.

/s/_____
Ryan J. Williams
Attorney for the Chapter 13 Trustee
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